

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 06-09-2006

CORAM:

THE HONOURABLE MRS. JUSTICE PRABHA SRIDEVAN

W.P.Nos.10081 & 10082 of 2002

L. Jaganath ... Petitioner in both the
Petitions

Vs.

1. State of Tamilnadu
Rep. by its Secretary to Government
Public Works (Irrigation) Department
Fort St. George, Chennai - 600 009
 2. The Sub-Collector (Land Acquisition Officer)
Palar Porandalar Scheme
Sub-Collector's Office
Taluk Office Compound, Palani - 624 601
 3. The Special Tahsildar (Land Acquisition)
Palar Porandalar Scheme
Palani - 624 601
 4. The Executive Engineer, W.R.O.,
Public Works Department (Irrigation)
Nanganjiyar Basin Division
Palani 642 601
- ... Respondents 1 to 4 in
WP No.10081 of 2002 and
Respondents Nil and 3 to 5 in
WP No. 10082 of 2002

1. State of Tamilnadu rep. by its
Secretary to Government,
Revenue Department, Fort St. George,
Chennai - 600 009. ... 1st Respondent in WP
NO.10082 of 2002
2. The Assistant Commissioner
(Land Reforms), Madurai ... 2nd Respondent in WP
No.10082/02

Prayer in Writ Petition.10081/2002:

Petition filed under Article 226 of the Constitution of India prayin
for a writ of mandamus directing the respondents herein to proceed

under the Land Acquisition Act, 1894 by issuing necessary Section 4(1) Notification and passing an award under Section 11 of the Act following the procedure contemplated under the Land Acquisition Act and consequently pay the compensation amount lawfully due to the petitioner in respect of the lands of the petitioner described in the Schedule.

(Xerox copy of the Schedule attached herewith)

Prayer in Writ Petition.10082/2002:

Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the second respondent herein to exclude and delete from the Calling Proceedings in MRI/J.6/PLN/58/61 initiated under Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act 1961 the following lands of the petitioner in Schedule of lands **(Xerox copy of Schedule Attached herewith)** situate in Balasamudram and Pudachu Villages, Palani Taluk which are subject matter of land acquisition proceedings of the respondents and 4 under the Palar Porundalar Dam Scheme.

For petitioner :: Mr. S. Parthasarathy, Senior Counsel
M/s Sarvabhauman Associates

For respondents:: Mr. G. Sankaran,
Additional Govt. Pleader

ORDER

The possession of the petitioner's lands were taken by the PWD Department for construction of Palar-Porunthalar land scheme. On 10-06-1970, notice was issued by the petitioner requesting the Government to pay compensation for the lands which were taken possession of, for the purpose of construction of the dam. On 06-10-1970, under G.O.Ms.No.2009, the PWD formulated and sanctioned the irrigation scheme known as Palar-Porunthalar dam. For that purpose, the Government decided to acquire vast extent of lands in Balasamudra Village and Pudhachehu Village. Notification under Section 4(1) of the Land Acquisition Act were issued on the following dates, 03-05-1972, 17-05-1972 and 26-07-1972. On 11-06-1972, notice under Section 5A of the Land Acquisition Act was given for enquiry. The petitioner appeared for the enquiry and gave his consent for acquisition on payment of just compensation. The draft declaration under Section 6 of the Act was set.

2. It is not necessary to go into the facts because State of Tamil Nadu Vs. Narendra Dairy Farms (P) Ltd., Dairy Farms (P) Ltd. (AIR 1987 Madras 161) is identical on facts.

3. There also the respondents proceeded against the land owner both under the Land Acquisition Act and the Land Ceiling Act and contended that the latter act will alone apply. The Division Bench rejecting the respondent's case held that the respondents should issue a Section 4(1) Notification and then proceed to pass an award accordingly.

4. When the matter was originally listed I referred the matter for mediation since the State would incur a huge financial burden if the Judgment of the Division Bench is followed. In all fairness the petitioner agreed to go for mediation. The respondents failed to avail of this opportunity. Therefore, the matter was argued again and it was stated that with respect to the petitioner's son's lands an award has been passed in award No.1 of 2003 dated 01-09-2003. The learned Senior Counsel submits that these lands are adjacent to the lands which are subject matter of this writ petition. In respect of those lands the 4(1) Notification is fixed as 12-07-2001. The petitioner has filed a memo that the same date may be adopted for notifying the acquisition proceedings in respect of the petitioner's lands.

5. The writ petition is ordered as follows:

The respondents are directed to initiate acquisition proceedings and pass an award fixing the 4(1) Notification as on 12-07-2001 as agreed to by the petitioner and pass an appropriate award as per the award passed in award No.1 of 2003 dated 01-09-2003 within 12 weeks from the date of receipt of this order.

However, there will be no order as to costs.

Learned Senior Counsel appearing for the petitioner requests that the following clarification may be made to avoid further delay:

Award No.1 of 2003 referred to in the order above is with regard to 19 acres out of the total extent of land, subject matter of the Writ petitions. Therefore, the order in these writ petitions relates only to the remaining extent of land. As regards the Award No.1 of 2003, the compensation awarded may be released in favour of the land owner. This release of the amount shall be done within a period of eight weeks from today.

This order shall form part of the order passed in the Writ Petitions.

glp

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government,
State of Tamilnadu
Public Works (Irrigation) Department
Fort St. George, Chennai - 600 009
2. The Sub-Collector (Land Acquisition Officer)
Palar Porandalar Scheme
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4. The Executive Engineer, W.R.O.,
Public Works Department (Irrigation)
Nanganjiyar Basin Division
Palani 642 601
5. The Assistant Commissioner
(Land Reforms), Madurai
6. The Secretary to Government of Tamilnadu,
Revenue Department,
Fort St. George,
Chennai - 600 009.

ONE CC TO M/S SARVABHAUMAN ASSOCIATES, ADVOCATE SR NO 41389

TWO CCS TO G.P., SR NOS. 41089 & 41090

Order in
W.P.Nos.10081 & 10082 of 200

PV (CO)
BP/18